

### **REMARKS**

This amendment is submitted with a request for a one month extension, a Request for Continued Examination and appropriate fees in reply to the final Office Action dated May 2, 2007. Claims 1-13 currently stand rejected. Applicant has amended independent claims 1 and 10 to more clearly recite the claimed invention. New claims 14 and 15 have been added to further define patentable aspects of the claimed invention. No new matter has been added by the amendment.

In light of the amendment and the remarks presented below, Applicant respectfully requests reconsideration and allowance of all now-pending claims of the present application.

#### **Claim Rejections - 35 USC §103**

Claims 1-13 currently stand rejected under 35 U.S.C. §103(a) as being unpatentable over Wiser et al. (U.S. Patent No. 6,868,403, hereinafter "Wiser") in view of Orlik (U.S. Patent Application Publication No. 2004/009226).

Independent claims 1 and 10 have been amended to clarify that a user of the wireless terminal is enabled to pre-study requested downloadable content. In response to handling payment for the pre-studied downloadable content, the pre-studied downloadable content is stored at the wireless terminal. In other words, the same content that was requested is pre-studied and, the pre-studied content is paid for and stored in response to receipt of payment.

Wiser is directed to a method for providing a secure online music distribution system for enabling selection, previewing and downloading of audio and other digital media. In this regard, Wiser describes how lower quality "clips" are made available for free previewing by a consumer, to enable the consumer to decide whether to purchase the high fidelity version of the audio or other digital media (col. 3, lines 56-65). Thus, as an initial matter, it is noted that the content provided in Wiser for preview is different than the content that is ultimately purchased and stored. This is further explained in FIG. 7 and col. 14, line 36 to col. 16, line 24 of Wiser, where it is clear that the clip is streamed to the user (col. 15, lines 55-60) for preview and, as further described in connection with FIGS. 9a and 9b, if the user decides to purchase the high fidelity version, a separate communication of the purchased licensed media (element 960 of FIG. 9b) is

provided following payment (col. 19, lines 31-36). Thus, content of Wiser that is previewed, although it may be associated with the content that is ultimately purchased, is not the same content. Furthermore, Wiser specifically describes the provision of the "clips" freely (col. 3, lines 60-62). Thus, the clips, which are clearly the previewed content of Wiser, are not the subject of purchase and subsequent storage as provided in the claimed invention.

The claimed invention does not require the preview of a low quality version of the downloadable content prior to purchase of the requested downloadable content. Instead, the same version that is requested is previewed and, when such content is purchased, storage may be enabled without subsequent communication of the version to be stored, since the version to be stored is already available at the wireless terminal. Thus, the content that is ultimately stored is the pre-studied content, which, for example, may be in its original or full-length form rather than being a low quality or partial form like the clip of Wiser. Additionally, Wiser clearly requires the payment prior to enabling downloading of the high fidelity version. Meanwhile, the claimed invention enables downloading of the downloadable content itself for preview prior to purchase and, after pre-study and purchase, enables storage of the pre-studied content at the wireless terminal. Accordingly, Wiser fails to teach or suggest that a user of the wireless terminal is enabled to pre-study requested downloadable content and that, in response to handling payment for the pre-studied downloadable content, the pre-studied downloadable content is stored at the wireless terminal.

Orlik, which is merely relied upon for its disclosure of a wireless terminal, fails to teach or suggest that a user of the wireless terminal is enabled to pre-study requested downloadable content and that, in response to handling payment for the pre-studied downloadable content, the pre-studied downloadable content is stored at the wireless terminal. Moreover, Orlik is not cited in this regard.

Since neither Orlik nor Wiser teaches or suggests the above described features of independent claims 1 and 10, any combination of Orlik and Wiser also fails to teach or suggest the above described features. Claims 2-9 and 11-13 depend either directly or indirectly from independent claims 1 and 10, respectively, and thus include all the recitations of their respective

Appl. No.: 10/084,982  
Amdt. Dated 09/04/2007  
Reply to Office Action of 10/11/2006

independent claims. Thus, dependent claims 2-9 and 11-13 are patentable for at least the same reasons given above for independent claims 1 and 10.

Accordingly, for all the reasons stated above, Applicant respectfully submits that the rejections of claims 1-13 are overcome.

**Newly Added Claims**

Applicants have added new claims 14 and 15 to more particularly define aspects of the present application. The new claims include no new matter and are fully supported by the specification and the drawings of the present application.

Accordingly, it is believed that the new claims are in condition for allowance.

Appl. No.: 10/084,982  
Amdt. Dated 09/04/2007  
Reply to Office Action of 10/11/2006

### **CONCLUSION**

In view of the amendments and the remarks submitted above, it is respectfully submitted that the present claims are in condition for immediate allowance. It is therefore respectfully requested that a Notice of Allowance be issued. The Examiner is encouraged to contact Applicant's undersigned attorney to resolve any remaining issues in order to expedite examination of the present invention.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



Chad L. Thorson  
Registration No. 55,675

**Customer No. 00826**  
**ALSTON & BIRD LLP**  
Bank of America Plaza  
101 South Tryon Street, Suite 4000  
Charlotte, NC 28280-4000  
Tel Charlotte Office (704) 444-1000  
Fax Charlotte Office (704) 444-1111

ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON SEPTEMBER 4, 2007.  
LEGAL02/30512446v1